

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Carlos Hernandes,) C/A No. 8:10-1306-HMH-BHH
vs.)
Plaintiff,)
Lexington County, and) ORDER
Lexington County Food Service Providers,)
Defendants.)

)

This matter is before the Court because of Plaintiff's failure to comply with the initial Order issued in this case on May 18, 2010. (Entry 1).

A review of the record indicates that Plaintiff was ordered to submit items needed to render this case into proper form within twenty days, and the Order specifically informed Plaintiff that if he failed to do so, this case would be dismissed *without prejudice*. The mail in which the Order was sent to Plaintiff at the address provided when the case was filed was returned to the Court marked "not deliverable as addressed unable to forward." Thus, it appears that Plaintiff was released from the Lexington County Detention Center at some time after this case was filed, but before the mail containing the initial Order arrived there. He has not provided the Court with an updated mailing address, and without that, this case cannot move forward. Plaintiff's failure to provide the Court with a mailing address outside the detention center indicates an intent to not continue prosecuting this case, and subjects this case to dismissal. See Fed. R. Civ. P. 41(b) (district courts may dismiss an action if a plaintiff fails to comply with "any order of the court"); see also *Ballard v. Carlson*, 882 F.2d 93, 95 (4th

Cir. 1989) (dismissal with prejudice appropriate where warning given); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982) (court may dismiss *sua sponte*).

Accordingly, this case is dismissed *without prejudice*. The Clerk of Court shall close the file.¹

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

June 11, 2010
Greenville, South Carolina

¹ Under General Order, Misc. No. 3:07-5014-JFA, this dismissal *without prejudice* does not count as a “strike” for purposes of the “three strikes” provision of 28 U.S.C. § 1915(g). If Plaintiff wishes to bring this action in the future, he should obtain new forms for doing so from the Clerk’s Office in Columbia (901 Richland Street, Columbia, South Carolina 29201).